FILED: JULY 9, 2008
08CV3897
PH

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

MASONRY INSTITUTE, BRICKLAYERS LOCAL 21 PENSION FUND, DISTRICT COUNCIL TRAINING CENTER FUND, AND BRICKLAYERS AND STONE MASONS OF ILLINOIS DISTRICT COUNCIL NO. 1 B.A.C. ANNUITY TRUST FUND

DEFENDANTS

JUDGE LEINENWEBER
MAGISTRATE JUDGE COX

Capek & Sons, Inc., an Illinois Corporation

PH

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _Cook_
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ROBERT B. GREENBERG
Asher, Gittler, Greenfield & D'Alba, Ltd.
200 West Jackson - Suite 1900
Chicago, Illinois 60606 - PHONE (312) 263-1500

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Employee Retirement Income Security Act of 1974 ("ERISA") and Labor-Management Relations Act of 1947; Breach of Collective Bargaining Agreement.

V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	☐ 610 Agriculture	☐ 422 Appeal 28 USC 158	☐ 400 State Reapportionment
☐ 120 Marine	☐ 310 Airplane	☐ 362 Personal Injury—Med Malpractice	☐ 620 Other Food & Drug		☐ 410 Antitrust
☐ 130 Miller Act	☐ 315 Airplane Product Liability	☐ 365 Personal Injury—Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 423 Withdrawal 28 USC 157	☐ 430 Banks and Banking
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander	☐ 368 Asbestos Personal Injury Product Liability	☐ 630 Liquor Laws		☐ 450 Commerce/ICC Rates/etc.
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability		☐ 640 R.R & Truck	PROPERTY RIGHTS	☐ 460 Deportation
☐ 151 Medicare Act	☐ 340 Marine		☐ 650 Airline Regs	☐ 820 Copyrights	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)	☐ 345 Marine Product Liability	PERSONAL PROPERTY	☐ 660 Occupational Safety/Health	☐ 830 Patent	☐ 810 Selective Service
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 370 Other Fraud	☐ 690 Other	☐ 840 Trademark	☐ 850 Securities/Commodities/ Exchange
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 371 Truth in Lending	LABOR	SOCIAL SECURITY	☐ 875 Customer Challenge 12 USC 3410
☐ 190 Other Contract	☐ 360 Other Personal Injury	☐ 380 Other Personal Property Damage	☐ 710 Fair Labor Standards Act	☐ 861 HIA (1395ff)	☐ 891 Agricultural Acts
☐ 195 Contract Product Liability		☐ 385 Property Damage Product Liability	☐ 720 Labor/Mgmt. Relations	☐ 862 Black Lung (923)	☐ 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	☐ 730 Labor/Mgmt. Reporting & Disclosure Act	☐ 863 DIWC/DIWW (405(g))	☐ 893 Environmental Matters
☐ 210 Land Condemnation	☐ 441 Voting	☐ 510 Motions to Vacate Sentence		☐ 864 SSID Title XVI	☐ 894 Energy Allocation Act
☐ 220 Foreclosure	☐ 442 Employment	Habeas Corpus:	☐ 740 Railway Labor Act	☐ 865 RSI (405(g))	☐ 895 Freedom of Information Act
☐ 230 Rent Lease & Ejectment	☐ 443 Housing/ Accommodations	☐ 530 General	☐ 790 Other Labor Litigation	FEDERAL TAX SUITS	☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 240 Torts to Land	☐ 444 Welfare	☐ 535 Death Penalty	☒ 791 Empl. Ret. Inc. Security Act	☐ 870 Taxes (U.S. Plaintiff or Defendant)	
☐ 245 Tort Product Liability	☐ 440 Other Civil Rights	☐ 540 Mandamus & Other		☐ 871 IRS—Third Party 26 USC 7609	☐ 950 Constitutionality of State Statutes
☐ 290 All Other Real Property		☐ 550 Civil Rights			☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)

☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND $

Check YES only if demanded in complaint:
JURY DEMAND: ☐ YES ☒ NO

VIII. REMARKS

In response to ☒ is not a refiling of a previously dismissed action
General Rule 2.21D(2) this case ☐ is a refiling of case number _____ of Judge _____

DATE 7-9-2008
SIGNATURE OF ATTORNEY OF RECORD (signature)

UNITED STATES DISTRICT COURT